



DECISION

Introduction

This hearing dealt with the Tenant's June 2, 2025 Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent (the "10-Day Notice")
- reduction in rent for repairs/services/facilities not provided
- repairs in the rental unit
- the Landlord's provision of services/facilities required by the tenancy agreement/*Act*

The Landlord's June 2, 2025 crossed to that of the Tenant in this hearing:

- an order of possession in line with the One Month Notice to End Tenancy for cause
- recovery of their Application filing fee.

The Tenant and the Landlord both attended the scheduled hearing.

Service of the Notice of Dispute Resolution Proceeding and evidence – Tenant's Application

The Tenant completed their Application to challenge the 10-Day Notice, and other grounds, on June 2, 2025. The Residential Tenancy Branch provided a copy of the Notice of Dispute Resolution Proceeding to the Tenant, via email, on June 2. The instructions accompanying the Notice of Dispute Resolution Proceeding are explicit in stating that the Tenant must serve the Landlord with hearing documentation and evidence within certain timeframes (i.e., 14 days before the hearing).

The 'Residential Tenancy Branch Rules of Procedure' (the "Rules") provide the following regarding service of evidence for a scheduled hearing:

- Rule 2.5: an applicant must submit evidence relied on for the hearing at the same time the submit an application for dispute resolution
- Rule 3.1: an applicant must, within 3 days fo receiving the Notice of Dispute Resolution Proceeding, serve it to a respondent, along with evidence in accordance with Rule 2.5
- Rule 3.14: any evidence intended to be relied on must be received by a respondent, and the Residential Tenancy Branch, not less than 14 days before the hearing
- Rule 3.17: evidence not provided in this manner may/may not be considered depending on whether the party can show it is new and relevant evidence that was not available that the time they submitted the application – an arbitrator’s consideration on this is whether accepting that evidence unreasonably prejudices the other party, or result in a breach of the principles of procedural fairness

In the hearing, the Landlord acknowledged the Tenant’s service of the Notice of Dispute Resolution Proceeding. This was in the Landlord’s own mailbox on June 3. I find the Tenant served the hearing documentation to the Landlord as required, based on the Landlord’s acknowledgement.

The Landlord stated they did not receive evidence for this hearing from the Tenant. The Tenant provided evidence to the Residential Tenancy Branch on Juen 23, 2025 (*i.e.*, two days before the scheduled hearing on June 25). These documents concern repairs in the rental unit, provision of services/facilities, and a reduction in rent for repairs not completed.

I find the Tenant did not provide this evidence in line with the Rules listed above. I omit this evidence from consideration for this reason.

For a respondent’s evidence submission, the Rules, Rule 3.15 sets out that a respondent’s evidence should be served to the other in a single package, “not less than seven days before the hearing or conference.”

The Landlord provided evidence to the Residential Tenancy Branch, in response to the specific uses listed on the Tenant’s Application, on June 24.

The Landlord’s documents they provided to the Residential Tenancy Branch on June 24 – the day prior to the scheduled hearing – were in response to the issues of repairs, services/facilities, and a rent reduction. Given that I have omitted the Tenant’s evidence on these issues from consideration, I omit the Landlord’s evidence that they provided in response for the same reason.

Preliminary Matter – relevant issues in this hearing

The Rules grant an arbitrator the discretion to dismiss unrelated claims with or without leave to reapply. Rule 2.3 describes “related issues”, and Rule 6.2 provides that an arbitrator may refuse to consider unrelated issues:

... if a party has applied to cancel a Notice to End Tenancy or is seeking an order of possession the arbitrator may decline to hear other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply

The matter of urgency here is the possible end of this tenancy. The most important issue to determine is whether the tenancy is ending, based on the 10-Day Notice that the Landlord issued. Alternatively, the One-Month Notice is at issue in this hearing.

In line with this, I dismiss the following issues without leave to reapply – in light of my finding that the Tenant did not serve evidence about these matters to the Landlord, and timelines not followed in line with procedural fairness:

- reduction in rent for repairs/services/facilities not provided
- repairs in the rental unit
- the Landlord’s provision of services/facilities required by the tenancy agreement/*Act*

Service of the Notice of Dispute Resolution Proceeding and evidence – Landlord’s Application

The Landlord brought a separate Application to the Residential Tenancy Branch on June 2. On June 3, the Residential Tenancy Branch sent the Notice of Dispute Resolution Proceeding to the Landlord for this Application, crossed to that of the Tenant already in place.

The Landlord provided proof to show their service of this Notice of Dispute Resolution Proceeding to the Tenant:

- tracking information (# listed on cover page of this decision) showing Landlord’s delivery on June 5, then no retrieval via the notice card left on June 9, with a final notice left on June 18
- a Proof of Service document, indicating June 9 as the served date, providing the same registered mail tracking number, and the rental unit address

- a receipt from the post office, dated June 5, showing the same tracking number
- an image of the envelope used, bearing the registered mail label with the same tracking number, a postage paid stamp dated June 5, and bearing the Tenant name and rental unit address.

In the hearing, the Landlord provided this was the method they utilized for service of the Notice of Dispute Resolution Proceeding and hearing information to the Tenant. The Tenant stated they did not receive this information.

As revealed by the tracking record, I find the Tenant did not retrieve the registered mail the Landlord sent to their address. I find the Landlord served the Notice of Dispute Resolution Proceeding and hearing information to the Tenant, as shown in the Landlord's evidence. I find the Landlord served this particular type of application, as per s. 89(2) of the *Act*, in a correct manner specified in s. 89(2)(b). I deem the material served to the Tenant on June 10, 2025, as per s. 90(a) of the *Act*.

The Tenant stated they did not receive a notification of registered mail; however, I find the notification of registered mail was placed correctly in the Tenant's mailbox on June 9. I find the Landlord completed service of the hearing material as required; therefore, I herein consider the issues the Landlord presented on this Application. I find it more likely than not that the Landlord, living at the adjacent (*i.e.*, the upper) address at the rental unit property would ensure delivery of the notice card from the post office, in the unlikely event that the post office place the card in the wrong location at the rental unit property. The Landlord presented other statements and evidence showing the Tenant mishandling/destroying mail that was delivered to them, which I find lends credence to the Landlord's account that they ensured a correct method of service for the Notice of Dispute Resolution Proceeding.

For this Application, the Landlord provided evidence to the Residential Tenancy Branch on May 29, May 30, and June 1, 2025. I find the Landlord provided this material with their Application that was completed at the Residential Tenancy Branch on June 2. I find it more likely than not, as per the Landlord's statement in the hearing, under affirmed oath, that they provided this material to the Tenant, along with the hearing information.

In sum, I find the Landlord served the Notice of Dispute Resolution Proceeding associated with their Application to the Residential Tenancy Branch; the Landlord also served their evidence for this matter as required. All of the Landlord's presented document evidence is on the record and herein receives my consideration.

Issues to be Decided

- a. Is the Landlord entitled to an Order of Possession in line with the One-Month Notice?
- b. Is the 10-Day Notice valid? If valid, is the Landlord entitled to an Order of Possession?
- c. Is the Landlord eligible for recovery of the Application filing fee?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant to my decision.

The Landlord presented a copy of the tenancy agreement they have in place with the Tenant, dated December 6, 2024. This was for the Tenant agreeing to pay the amount of \$1,050 per month, on the 20th of each calendar month. The agreement notes a damage/pet deposit combined for \$1,050.

The agreement sets out that the Tenant shares the rental unit with other occupants. The agreement sets out specific guidelines about “every occupant’s responsibility” for cleaning, and conduct.

In the hearing, the parties specifically addressed the rent payment date, clarifying that another arbitrator made the finding that the rent payment date was definitively set on the 20th of each month, as per the original agreement. A separate end-of-tenancy notice for non-payment of rent was cancelled for this reason, where the Landlord indicated the rent due date of the 1st on that tenancy-end notice.

On May 23, 2025, in the context of a prior Tenant application for resolution, the Arbitrator provided their reasons for finding that the Residential Tenancy Branch has jurisdiction in this matter, with the Respondent (i.e., the Landlord) meeting that definition, being

a person, entitled to possession of the lower unit . . . but they are not occupying the rental unit, and they are exercising their rights of a landlord under their “occupancy agreement” or the *Act* in relation to the unit.

In the evidence, the Landlord presented the One-Month Notice that they signed on April 2, 2025, setting the tenancy-end date of April 30, 2025.

On page 2 of the document, the Landlord indicated the following:

- ☐ Tenant is repeatedly late paying rent

- Tenant or a person permitted on the property by the tenant has
 - significantly interfered with or unreasonably disturbed another occupant or the landlord
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the property
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

On page 2 of the document, the Landlord provided details:

[The Tenant] refuses to take responsibility and action for any cleanliness related issues and complains from other roommates – [the Tenant] refuses to follow through with bi-weekly back yard dog pick up – [the Tenant] refuses landlord access to shared spaces and landlords room, even with 24 hour notice - [the Tenant] refuses landlord to inspect occupants room or show it to other parties interested in renting the room – [the Tenant] refuses to keep thermostat at reasonable temperature – [the Tenant] threatened occupants of the house with physical harm or legal action and creating uncomfortable and unsafe environment – [the Tenant] repeatedly smokes weed on the property and has purchased weed from illegal online sources, subsequently not paying for his purchase, our address was provided and we were contacted by the dealers associate - inappropriate and threatening gesturing on security cameras, swearing and accusing landlord from racism during every interaction, unprovoked - taking photos and videos of landlords space from the back yard - property damage - breaking thermostat cover - refusing to pay rent on agreed date

The Landlord's prepared evidence, provided to the Residential Tenancy Branch and served to the Tenant, presents various aspects of these matters, in the form of documents, messages to/from the Tenant and other occupants, video, and pictures.

In an account from the Landlord, and in their evidence, the Landlord provided prior letters to the Tenant wherein they attempted to end the tenancy. In a summary document of the issues, the Landlord listed the grounds for ending the tenancy, as "summary of the agreement breaches".

On page 3 of the document, the Landlord indicated that they left the copy of the document in the mailbox/mail slot at the rental unit address. The Landlord provided a picture of the envelope they used for this purpose, in the mailbox that specifically shows the address for the rental unit. The .jpg file information reveals this picture was taken on April 3, 2025, 6:35am. The Landlord provided another picture of this image sent from the person who witnessed that transaction, sent to the Landlord on April 3 at 6:36am.

On page 3 of the document, the Landlord indicated that they left the copy of the document in the mailbox/mail slot at the rental unit address. The Landlord provided a picture of the

envelope they used for this purpose, adjacent to the mailbox that specifically shows the address for the rental unit. The .jpg file information reveals this picture was taken on April 3, 2025, 6:35am. The Landlord provided another picture of the envelope in the mailbox, also with same file information.

The Landlord also provided a document entitled 'Proof of Service', the Residential Tenancy Branch-generated document specific for this purpose. The witness to the Landlord's service signed that they observed the Landlord leave the copy of this document in the mailbox on April 3, 2025 at 6:35am. The Landlord provided the following details:

Envelope was delivered by landlord [Name] in presence of [witness individual] as witness early morning April 3rd 2025 and place in tenants mailbox at [rental unit address].

In the hearing, the Tenant stated they did not receive this One-Month Notice. They stated they disputed every tenancy-end notice they received from the Landlord. Because they did not dispute this document, this means they did not receive it.

In the hearing, the Landlord noted they served this document as part of evidence in other hearings they had with the Tenant via the Residential Tenancy Branch. The Tenant reiterated their statements that the Landlord is attempting to end the tenancy as a form of retaliation, after the Tenant legitimately disputed the Landlord's attempted rent increase.

Analysis

In general, a party that makes an application for compensation against the other party has the burden to prove their claim. This burden of proof is based on a balance of probabilities.

As set out above, I find the parties have a tenancy agreement in place. I note the rent-payment date is the 20th of each calendar month as established in that agreement.

a. Is the Landlord entitled to an Order of Possession in line with the One-Month Notice?

The *Act* s. 47 states that a landlord may issue a One-Month Notice when a landlord has a reason for doing so; those reasons are listed in s. 47.

The *Act* s. 47(4) sets out that a tenant may dispute a notice under this section, by making an application for dispute resolution within 10 days after they receive the notice.

The *Act* s. 47 (5) sets out that a tenant, who has received a notice under this section, and who does not make an application for dispute resolution within 10 days after the date they receive

the document, is conclusively presumed to have accepted that the tenancy ends. A tenant must vacate the rental unit by that end-of-tenancy date.

I find the Landlord credible on their account that they served the One-Month Notice to the Tenant on April 3. This is verified by a picture showing an envelope placed in the Tenant's mailbox, bearing the data that the picture was created on April 3 at 6:35am. This is the time referred to in the witness account of mailbox service, which is a method of service set out for a document of this type in s. 88(f) of the *Act*.

As per s. 90(d) of the *Act*, I deem the One-Month Notice to be received by the Tenant on the third day after it was left: April 6, 2025.

Based on the evidence before me, the Landlord's testimony, document evidence, and on a balance of probabilities, I find the Tenant did not make an application under s. 47(4) of the *Act* within 10 days of receiving the One-Month Notice. This date was April 16, being the 10th day past the deemed service date of April 6. In accordance with s. 47(5) of the *Act*, I find the Tenant is conclusively presumed to have accepted that the tenancy ended. In this case, the Tenant was required to vacate the rental unit.

The *Act* s. 53 provides that incorrect effective dates are automatically changed:

In the case of a notice to end tenancy . . . if the effective date stated in the notice is any day other than the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, the effective date is deemed to be the day before the day in the month . . . on which the tenancy is based, that rent is payable under the tenancy agreement

(a) that complies with the required notice period, or

(b) if the landlord gives a longer notice period, that complies with that longer notice period.

On this basis, I deem the One-Month Notice effective day to be May 19, on the basis that the rent-payment date each month is the 20th, based on the tenancy agreement.

Therefore, I find that the Landlord is entitled, under law, to an order of possession based on the One-Month Notice. The document complies fully with the form and content requirements set out in s. 52 of the *Act*. I grant the Order of Possession to the Landlord, **effective two days' after the Landlord serves the Order of Possession to the Tenant** in a legally valid manner, as per s. 55 of the *Act*. I grant the Landlord the more immediate effective Order of Possession based on the parties' prevalent anger toward each other that is making every interaction very difficult.

b. Is the 10-Day Notice valid? If valid, is the Landlord entitled to an Order of Possession?

Given that the tenancy is ending via the One-Month Notice and the Order of Possession I grant to the Landlord from their Application, I dismiss the Tenant's Application to dispute the 10-Day Notice, without leave to reapply.

c. Is the Landlord eligible for recovery of the Application filing fee?

I find the Landlord was successful in this Application. I grant the Landlord recovery of the Application filing fee. As per s. 72(2)(b) any payment from a tenant to a landlord may be deducted from a security deposit. On this basis, I authorize the Landlord to retain \$100 from the security deposit in place.

Conclusion

I dismiss the Tenant's Application in its entirety, without leave to reapply.

I grant an Order of Possession to the Landlord **effective two (2) days after the Landlord serves this Order of Possession on the Tenant**. Should the Tenant or anyone on the premises fail to comply with this Order, the Landlord may file this Order in the Supreme Court of British Columbia where it will be enforced as an Order of that Court.

By s. 71 of the *Act*, I authorize the Landlord to serve the Order of Possession to the Tenant via email, and/or by attaching the Order of Possession to the door of the rental unit.

I authorize the Landlord to deduct \$100 from the security deposit, as recompense for the Application filing fee.

I make this decision on the authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: June 30, 2025

Residential Tenancy Branch